

Fiscal Note

Fiscal Services Division



HF 167 – Newborns and Illegal Drugs (LSB 1665HV)

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Fiscal Note Version – New

Requested by Representative Mary Wolfe

Description

House File 167 creates a new child endangerment offense, applied to a mother that causes an illegal drug to be present in her newborn child's body. The new child endangerment offense is punishable as a Class "D" felony.

Background

Correctional and Fiscal Information

- According to the Department of Human Services (DHS), during calendar year 2011, there were 90 children aged one month or less that were victims of abuse related to illegal drugs in the child's body. Typically, 21 (23.3%) of these children are placed in foster care and 69 (76.7%) remain at home and the family receives services from the DHS.
- The annual cost of foster care placement is \$9,235, with \$6,183 paid from State funds for the State share.
- It takes about 24 months to finalize an adoption. The average annual cost for adoption subsidy is approximately \$7,500, with \$4,200 being the State's share.
- Termination of Parental Rights (TPR) proceedings cost \$1,800 per case to the indigent defense budget.
- Current law provides a graduated system of penalties for child endangerment, ranging from an aggravated misdemeanor to a Class "B" felony, depending on the specific crime and circumstances of the offense. Offenders charged under [Iowa Code section 726.6](#) may plead to a lesser offense and be convicted of an aggravated misdemeanor rather than the Class "D" felony imposed in the Bill.
- The marginal cost per day for State prison is \$17.60. The average cost per day for parole or probation in Community-Based Corrections (CBC) is \$3.66.
- According to the Justice Data Warehouse, the State Public Defender's Office, the Department of Corrections (DOC), and the Judicial Branch, the following are estimates for sentencing, length of stay, indigent cost, and case cost for those convicted of a Class "D" felony or aggravated misdemeanor for crimes against persons or child endangerment offenses:

Criminal Justice System Information

Type of Conviction	Percent Sentenced to Prison	Avg Length of Stay in Prison	Percent Sentenced to Probation	Avg Length of Stay on Probation	Avg Length of Stay on Parole	Cost of Indigent Defense	Avg. Cost Per Case for Judicial Branch
Class "D"	25.0%	21 months	75.0%	33.9 months	12.5 months	\$1,200	\$427
Aggravated Misdemeanor	6.0%	8 months	94.0%	20.4 months	5.5 months	\$1,200	\$209

Minority Data Information

- The race of the mother is not tracked. Of the 90 children cited above, 68.0% were white, 16.0% were Black, 7.0% were identified with two or more races, 6.0% were listed as unknown, and 3.0% were American Indian, Alaska Native, Asian, or Hawaiian.
- Approximately 18.0% of offenders convicted of child endangerment in FY 2012 were Black.

Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statements](#), dated February 11, 2013, for information related to minorities in the criminal justice system.

Assumptions

Correctional and Fiscal Information:

- There will be 69 children impacted annually. Of these, two-thirds (46) will be placed with relatives while one-third (23) will be placed in paid foster care.
- There will be 12 additional adoption cases annually under the Bill.
- There may be an increase in Termination of Parental Rights (TPR) proceedings. To the extent that these proceedings increase with indigent parties involved, there will be an impact on the indigent defense budget. That impact cannot be estimated, but is not expected to be significant.
- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice policies and practices will not change over the projection period.
- The law will become effective July 1, 2013. A lag effect of six months is assumed from the effective date to the date of first entry of affected offenders into the correctional system.
- These will be bench trials. Half of the defendants will be indigent.
- There will be an increase in county jail sentences for misdemeanor convictions. Marginal costs for county jails cannot be determined due to a lack of data. For the purpose of this analysis, the marginal cost for county jails is \$15.00 per day.

Minority Data Information: The impact on minorities will remain consistent with current data.

Summary of Impacts

Correctional Impact

There will be an estimated 44 offenders annually convicted under this Bill; these will be new offenders in the criminal justice system. Of the 44 offenders, 18 will be Class "D" felons and 26 will be aggravated misdemeanants. On an annual basis, these offenders will be sentenced as follows: seven annually to prison and 37 to probation. The table below shows the increase in the corrections population.

Correctional Impact					
	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Prison	4	9	10	10	10
CBC	18	39	43	44	44
Total	22	48	53	54	54

On an annual basis, five offenders will be sentenced to county jail for an average length of stay of 33 days. These offenders will then be placed on CBC supervision.

Minority Impact

To the extent the Bill results in additional criminal convictions, there will be a disproportionate impact on minorities because approximately 16.0% to 18.0% of offenders convicted under the Bill's provisions may be minorities. Additional criminal convictions will result in an increased number of minority offenders supervised in the corrections system.

Fiscal Impact

The fiscal impact is estimated to be an increased cost of \$192,600 in FY 2014 and \$414,400 in FY 2015. The table below shows the impact by funding source. Criminal justice system costs are expected to level off in FY 2017, when the number of offenders entering the system is equivalent to the number of offenders exiting the system. The impact to the DHS budget will be to the foster care placement budget.

Fiscal Impact by Funding Source

	FY 2014			FY 2015		
	General Fund	Federal Funds	Total	General Fund	Federal Funds	Total
Court System	\$ 19,200	\$ 0	\$ 19,200	\$ 38,000	\$ 0	\$ 38,000
Indigent Defense	28,000	0	28,000	54,000	0	54,000
Prison	13,000	0	13,000	58,000	0	58,000
CBC	12,000	0	12,000	52,000	0	52,000
DHS	80,400	40,000	120,400	142,200	70,200	212,400
Total	<u>\$ 152,600</u>	<u>\$ 40,000</u>	<u>\$ 192,600</u>	<u>\$ 344,200</u>	<u>\$ 70,200</u>	<u>\$ 414,400</u>

There will be a cost to county jail operating budgets of approximately \$2,500 annually.

There will be a cost to the DHS adoption subsidy program starting in FY 2016, of approximately \$90,000 annually, with \$50,400 paid from the General Fund for the State's share.

Sources

Department of Human Services
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Judicial Branch
State Public Defender's Office

/s/ Holly M. Lyons

February 19, 2013

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.